

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

PERRY ALLEN AUSTIN,

Petitioner,

v.

NATHANIEL QUARTERMAN,

Respondent.

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CIVIL ACTION NO. H-04-2387

ORDER DENYING PETITIONER'S MOTION FOR SUPPLEMENTAL DISCOVERY

Petitioner Perry Allen Austin, a Texas death row inmate, has filed a motion for supplemental discovery. Rule 6(a) of the Rules Governing Section 2254 cases authorizes a federal court to permit discovery in a habeas corpus case upon a showing of good cause.

This Court previously permitted Austin to conduct discovery relevant to several of his claims, including claims relating to his mental status. Austin now speculates that portions of the District Attorney's work file, withheld as privileged work product, show that the District Attorney withheld evidence from the trial court that Austin was incompetent to waive his right to counsel.

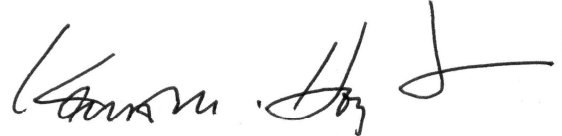
Austin has already conducted extensive discovery relevant to his mental status, and has access to his own records apart from any formal discovery. His claims regarding the allegedly withheld evidence are wholly speculative, and Austin fails to demonstrate why such evidence is necessary to prove any claim in his petition.. Therefore, Austin fails to demonstrate good cause for his request.

Accordingly,

IT IS ORDERED that Petitioner's Motion For Supplemental Discovery (Docket Entry 77) is **DENIED**.

It is So Ordered.

SIGNED at Houston, Texas this 31st day of July, 2009.

A handwritten signature in black ink, appearing to read "Kenneth M. Hoyt", written over a horizontal line.

Kenneth M. Hoyt
United States District Judge